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Message Text

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FM SECSTATE WASHDC
TO USDEL SECRETARY IMMEDIATE

C O N F I D E N T I A L STATE 000358 TOSEC 250130

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E.O. 11652:GDS

TAGS: EINV, AR

SUBJECT:GSP EXPROPRIATION REVIEW ON ARGENTINA AND OTHER "GRAY-AREA"COUNTRIES

FROM KATZ AND ROGERS TO SECRETARY

1. THE CIEP EXPROPRIATION GROUP, WHICH IS CHAIRED BY ASSISTANT SECRETARY ENDERS, HAS RECENTLY BEEN MEETING TO CONSIDER THE CONTINUED ELIGIBILITY OF "GRAY-AREA" COUNTRIES FOR GSP UNDER THE EXPROPRIATION PROVISION (SEC. 502(B)(4)) OF THE TRADE ACT OF 1974. THE GROUP HAS DECIDED THAT BENIN (FORMERLY DAHOMEY) IS NOT PRESENTLY IN COMPLIANCE WITH THE REQUIREMENTS OF THE ACT. A SIMILAR DECISION APPEARS IMMINENT CONCERNING CONGO (BRAZZAVILLE) AND TANZANIA. A
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DECISION REGARDING THE CENTRAL AFRICAN REPUBLIC IS STILL

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PENDING, ALTHOUGH PRESIDENT BOKASSA'S RECENT PERSONAL ASSURANCES THAT HE WILL SETTLE THE OUTSTANDING EXPROPRIATION CASES IN THAT COUNTRY REPRESENT A HOPEFUL NEW ELEMENT. TREASURY IS ALSO CONCERNED ABOUT TURKEY'S CONTINUED ELIGIBILITY ON THE BASIS OF PROPERTY TAKINGS IN NORTHERN CYPRUS, BUT AGREED TO KEEP THE MATTER UNDER REVIEW FOR ANOTHER MONTH. IN ADDITION, TREASURY (OPPOSED BY STATE) HAS TAKEN A STRONG POSITION THAT THE EXPROPRIATION GROUP SHOULD RECOMMEND AT THIS TIME THAT ARGENTINA BE DECLARED INELIGIBLE FOR GSP BY REASON OF EXPROPRIATION. BARRING A "NATIONAL ECONOMIC INTERES" WAIVER (WHICH IS NOT LIKELY TO BE SUSTAINED FOR THE AFRICAN COUNTRIES, AND WHICH IS UNCERTAIN EVEN FOR TURKEY AND ARGENTINA), AT LEAST SOME OF THESE COUNTRIES STAND TO LOSE THEIR GSP ELIGIBILITY SOON.

2. THE MAJOR UNRESOLVED ISSUE BEFORE THE EXPROPRIATION GROUP CONCERNS WHETHER THE RECENT STEPS TAKEN BY THE GOVERNMENT OF ARGENTINA TOWARD A SETTLEMENT OF THE NATIONALIZATION CASES INVOLVING US FIRMS (ITT, CHASE MANHATTAN, EXXON, ETC.) ARE SUFFICIENT TO JUSTIFY KEEPING ARGENTINA ON THE LIST OF COUNTRIES ELIGIBLE TO BENEFIT FROM OUR GENERALIZED PREFERENCES SCHEME (GSP). STATE (ARA, EB, AND L) TOOK THE POSITION THAT THE ACTIONS OF THE GOA, TAKEN SINCE EARLY NOVEMBER, WHEN WE NOTIFIED THE GOA THAT ITS ELIGIBILITY FOR GSP WAS LINKED TO PROGRESS TOWARD A SOLUTION OF THESE CASES, ARE ADEQUATE PRELIMINARY STEPS WITHIN THE MEANING OF THE TRADE ACT. WE MADE CLEAR THAT THIS POSITION WAS BASED ON AN ASSUMPTION OF CONTINUED PROGRESS AND THAT, IN ORDER TO MAINTAIN PRESSURE ON THE GOA, WE SHOULD INFORM THE ARGENTINES THAT THE SITUATION WOULD BE REVIEWED AGAIN BEFORE THE END OF JANUARY. MORE SUBSTANTIAL PROGRESS IS NECESSARY SOON OR APPLICATION OF SANCTIONS MAY BECOME INEVITABLE.

3. TREASURY ARGUED THAT THE STEPS TAKEN BY THE GOA ARE NOT ADEQUATE AND THAT THE PRESIDENT SHOULD IMMEDIATELY GIVE FORMAL NOTIFICATION TO THE CONGRESS AND THE GOA OF HIS INTENTION TO REMOVE ARGENTINA FROM THE LIST OF ELIGIBLE COUNTRIES. SINCE THE REMOVAL WOULD ONLY BE CONFIDENTIAL

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EFFECTIVE 60 DAYS AFTER THE NOTIFICATION, THIS WOULD GIVE THE GOA 60 DAYS TO TAKE CONCRETE STEPS TO SETTLE THE EXPROPRIATION CASES WITHOUT LOSING THE BENEFITS OF GSP.

4. SIMON PERSONALLY FEELS VERY STRONGLY THAT THE ARGENTINE RECORD ON THESE EXPROPRIATION CASES, INCLUDING RECENT STEPS, IS PHONY PROGRESS -- LOTS OF STATEMENTS

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OF INTENT BUT NO WILL TO SETTLE. HE WANTS TO ACT
AGAINST ARGENTINA NOW AND WILL ALMOST SURELY CONTACT
YOU ON THIS SHORTLY. CLEARLY THE ARGENTINE RECORD ON THESE
EXPROPRIATION CASES IS NOT GOOD, PARTICULARLY OVER THE
ENTIRE TWO-YEAR SPAN THAT SOME OF THEM HAVE BEEN OUT-
STANDING. IT IS A CLOSE CALL ON WHICH REASONABLE MEN
CAN DIFFER AS TO WHETHER OR NOT ACTIONS TAKEN BY THE
GOA CONSTITUTE MEANINGFULL STEPS TOWARD SETTLEMENT. WE
BELIEVE THAT GOA HAS DEMONSTRATED SUFFICIENT GOOD FAITH
TO SATISFY THE PROVISIONS OF THE TRADE ACT FOR CONTINUED

GSP ELIGIBILITY, BUT THIS IS BASED IN PART ON A JUDGMENT
THAT GOA MOVEMENT SINCE EARLY NOVEMBER HAS ESTABLISHED A
TREND WHICH, IF SUSTAINED, WILL CLEARLY CONSTITUTE
MEANINGFUL STEPS. SINCE EARLY NOVEMBER WHEN WE NOTIFIED
THE GOA OF THEIR BORDERLINE STATUS, THE GOA HAS TAKEN
SOME, BUT NOT ALL, OF THE SPECIFIC STEPS TOWARD SETTLE-
MENT THAT WE SUGGESTED -- THIS IN SPITE OF AN ALMOST
TOTAL VACUMN OF GOVERNMENTAL POWER IN BUENOS AIRES.

5. THE POINT ON WHICH OUR CASE IS STRONGEST AND SIMON'S
IS WEAKEST IS HIS INSISTENCE THAT WE RECOMMEND A
NEGATIVE FINDING TO THE PRESIDENT NOW. WE FEEL THERE IS
NO PRESSURE TO ACT IMMEDIATELY AND THAT IT IS MORE
THAN REASONABLE TO DELAY FOR 30 DAYS. WE COULD AGREE
BOTH TO REASSESS THE ARGENTINE SITUATION IN 30 DAYS AND
TO WARN THE GOA NOW THAT MORE PROGRESS IS NEEDED TO
SUSTAIN A FAVORABLE FINDING IN THEIR CASE. THE POINT
THAT THE GOA AS OF JANUARY 1 GETS GSP BENEFITS FOR
WHICH THEY MAY SUBSEQUENTLY BE FOUND INELIGIBLE IS
TRIVIAL COMPARED TO THE NEED TO MAKE THE RIGHT RECOMMEN-
DATION TO THE PRESIDENT.

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6. THE POLITICAL IMPLICATIONS WOULD BE SIGNIFICANT OF
OUR TAKING PUBLIC PUNITIVE ACTION AGAINST ARGENTINA
AFTER THE GOA HAS CLEARLY MADE A SERIOUS EFFORT TO MEET OUR
REQUIREMENTS AND WOULD BE DAMAGING TO OUR RELATIONS WITH
ARGENTINA. IT WOULD BE INTERPRETED BY SOME, IN ARGENTINA
AS WELL AS ELSEWHERE, AS A SIGN OF US DISFAVOR TOWARD
THE CURRENT DEMOCRATICALLY-ELECTED GOVERNMENT, WHICH IS
LIVING UNDER THE THREAT OF A MILITARY COUP. FURTHERMORE,
IT WOULD CERTAINLY MAKE IT IMPOSSIBLE FOR THIS, OR ANY
OTHER ARGENTINE GOVERNMENT, TO COME TO A REASONABLE
SETTLEMENT WITH THE US FIRMS. THAT IS MORE LIKELY TO
RESULT FROM OUR PROPOSAL.

7. IT IS UNNECESSARY TO ELABORATE THE IMPLICATIONS FOR
OUR LATIN AMERICAN POLICY OF EXCLUDING ARGENTINA FROM

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GSP NOW. THERE COULD BE A REPLAY OF LAST YEAR'S REACTION AFTER THE TRADE BILL PASSED EXCLUDING VENEZUELA AND ECUADOR. SUCH A FUROR WOULD DISTRACT ATTENTION FROM THE ECONOMIC BENEFITS OF GSP TO LATIN AMERICA AND RETURN DISCUSSION TO OUR LACK OF POLITICAL WILL TO ASSIST OUR OWN HEMISPHERE IN TIMES OF RECORD BALANCE OF PAYMENTS DEFICITS. THERE COULD EVEN BE FALL-OUT IN THE CIEC, SINCE ARGENTINA IS A FULL MEMBER.

8. SECRETARY SIMON WILL BE GOING TO JAMAICA DECEMBER 31 TO ATTEND A MEETING OF THE IMF INTERIM COMMITTEE AND EXPECTS TO MEET WITH YOU THERE. TREASURY INFORMS US THAT HE PLANS TO RAISE THE ARGENTINE GSP CASE WITH YOU. IN THE EVENT HE DOES, YOU MAY USE THE FOLLOWING TALKING POINTS:

-- IN OUR JUDGMENT, THE CONCRETE STEPS TAKEN BY THE GOA SINCE EARLY NOVEMBER, WHEN WE INFORMED IT THAT ARGENTINA'S ELIGIBILITY FOR GSP WAS BEING REVIEWED IN LIGHT OF PROGRESS MADE TOWARD SETTLEMENT OF THE INVEST-MENT DISPUTES, ARE ENCOURAGING. THERE HAS BEEN A QUALITATIVE CHANGE IN THE LAST FEW MONTHS.

-- KEEPING IN MIND THAT ARGENTINA HAS BEEN ALMOST WITHOUT

AN EFFECTIVE GOVERNMENT SINCE MRS. PERON RESUMED PRESIDEN-
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TIAL DUTIES ON OCTOBER 17, THE PROGRESS MADE BY THE GOA IS NOT INSIGNIFICANT. THIS IS ESPECIALLY TRUE WITH RESPECT TO THE BANK CASES AND TO ITT. THE ARGENTINES ARE READY TO BUY TELEPHONES AGAIN FROM ITT'S SUBSIDIARY.

-- IF WE REMOVE ARGENTINA FROM THE GSP ELIGIBLE COUNTRY LIST, IT WOULD PROBABLY BE POLITICALLY IMPOSSIBLE FOR THIS, OR ANY OTHER ARGENTINE GOVERNMENT, TO COME TO A REASONABLE SETTLEMENT WITH THE US FIRMS.

-- THE BEST COURSE OF ACTION FOR THE TIMEBEING IS TO CONTINUE WHAT WE ARE DOING NOW; KEEP THE THREAT OF LOSS OF GSP BEFORE THE ARGENTINES AND PRESS FOR CONTINUED PROGRESS. WE ARE READY TO REVIEW THE ARGENTINE CASE AGAIN IN ANOTHER MONTH TO SEE WHETHER SATISFACTORY PROGRESS HAS BEEN MADE.

-- THE EXCLUSION OF ARGENTINA WOULD SEND UP A STORM OF PROTEST IN LATIN AMERICA, JUST AS THE EXCLUSION OF VENEZUELA AND ECUADOR DID. IT WOULD DISTRACT ATTENTION FROM GSP AS EVIDENCE OF OUR CONCILIARY FOREIGN ECONOMIC POLICY AND MAKE IT UNNECESSARILY CONFRONTA-

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TIONAL. ARGENTINA MIGHT EVEN USE IT AT THE CIEC.

-- (IF RAISED) TO FIND ARGENTINA GUILTY BUT INVOKE THE "NATIONAL ECONOMIC INTEREST" WAIVER TO PERMIT ARGENTINA TO CONTINUE TO BENEFIT FROM GSP WOULD LESSEN THE PRESSURE ON THE GOA TO RESOLVE THE INVESTMENT CASES. FURTHERMORE, THIS IS A POOR FALLBACK, SINCE HICKENLOOPER (ABSENT A "NATIONAL INTEREST" WAIVER) AND GONZALEZ (NO WAIVER PROVISION) WOULD BE TRIGGERED IN THE PROCESS THE SAME AS IF A WAIVER FOR GSP HAD NOT BEEN PROVIDED.

-- THERE IS NO NEED FOR AN EARLY JANUARY DECISION SINCE THE PRESIDENT IS NOT REQUIRED TO ANNOUNCE ANYTHING REGARDING ARGENTINA'S ELIGIBILITY ONE WAY OR THE OTHER WITHIN THAT TIME FRAME. THEREFORE, IT MAKES SENSE TO CONTINUE OUR PRESSURE ON ARGENTINA BY REQUIRING FURTHER PROGRESS ON SETTLEMENTS BY THE END OF JANUARY UNDER THREAT OF REMOVAL OF GSP. ROBINSON

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